

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SHIRLEY WEIMER,

Defendant.

No. CR 13-3035-MWB

**INSTRUCTIONS
TO THE JURY**

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VERDICT FORM

No. 1 — INTRODUCTION

Congratulations on your selection as a juror! These Instructions are to help you better understand the trial and your role in it.

In an Indictment, a Grand Jury has charged defendant Shirley Weimer with several offenses arising from the allegedly intentional destruction, by fire, of a rental home that Weimer owned in Fort Dodge, Iowa, on or about March 2, 2009, for which Weimer received insurance proceeds for an “accidental” fire. An Indictment is simply an accusation—it is not evidence of anything. The defendant has pled not guilty to the crimes charged against her, and she is presumed absolutely not guilty of each offense, unless and until the prosecution proves her guilt on that offense beyond a reasonable doubt.

You must decide during your deliberations whether or not the prosecution has proved the defendant’s guilt on each offense charged beyond a reasonable doubt. In making your decision, you are the sole judges of the facts. You must not decide this case based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluation of that evidence, your reason and common sense, and these instructions. Do not take anything that I have said or done or that I may say or do as indicating what I think of the evidence or what I think your verdict should be.

Remember, only defendant Shirley Weimer, and not anyone else, is on trial. Also, the defendant is on trial only for the offenses charged against her in the Indictment, and not for anything else.

You must return a unanimous verdict for or against the defendant on each charged offense.

Please remember that this case is important to the parties and to the fair administration of justice. Therefore, please be patient, consider all of the evidence, and do not be in a hurry to reach a verdict just to be finished with the case.

No. 2 — PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

The presumption of innocence means that the defendant is presumed to be absolutely not guilty.

- This presumption means that you must put aside all suspicion that might arise from the defendant's arrest, the charges, or the fact that she is here in court
- This presumption remains with the defendant throughout the trial
- This presumption is enough, alone, for you to find the defendant not guilty of each offense charged against her, unless the prosecution proves, beyond a reasonable doubt, all of the elements of that offense

The burden is always on the prosecution to prove guilt beyond a reasonable doubt.

- This burden never, ever shifts to the defendant to prove her innocence
- This burden means that the defendant does not have to call any witnesses, produce any evidence, cross-examine the prosecution's witnesses, or testify
- This burden means that, if the defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict
- This burden means that you must find the defendant not guilty of each offense charged against her, unless the prosecution proves beyond a

reasonable doubt that she has committed each and every element of that offense

No. 3 — REASONABLE DOUBT

A reasonable doubt is a doubt based upon reason and common sense.

- A reasonable doubt may arise from evidence produced by the prosecution or the defendant, keeping in mind that the defendant never, ever has the burden or duty to call any witnesses or to produce any evidence
- A reasonable doubt may arise from the prosecution's lack of evidence

The prosecution must prove the defendant's guilt beyond a reasonable doubt.

- Proof beyond a reasonable doubt requires careful and impartial consideration of all of the evidence in the case before making a decision
- Proof beyond a reasonable doubt is proof so convincing that you would be willing to rely and act on it in the most important of your own affairs

The prosecution's burden is heavy, but it does not require proof beyond all doubt.

No. 4 — OTHER IMPORTANT TERMS

Before I turn to specific instructions on the offenses charged in this case, I will explain some important terms.

Elements

Each offense charged consists of “elements,” which are the parts of the offense.

- The prosecution must prove beyond a reasonable doubt all of the elements of an offense for you to find the defendant guilty of that offense
- The “elements” that the prosecution must prove for you to find the defendant guilty of each charged offense are set out in **bold** in these Instructions

Timing

The Indictment alleges an approximate date or period of time for each charged offense.

- The prosecution does not have to prove that an offense occurred on an exact date
- The prosecution only has to prove that an offense occurred at a time that was reasonably close to the date alleged or within the time period alleged for that offense in the Indictment

Location

You must decide whether the defendant's conduct occurred in the Northern District of Iowa. Fort Dodge is in the Northern District of Iowa.

Verdict Form

At the end of the case and your deliberations, you will indicate your verdict on the Verdict Form attached to these Instructions.

- A Verdict Form is simply a written notice of your decision
- When you have reached a unanimous verdict, your foreperson will complete one copy of the Verdict Form by marking the appropriate blank or blanks for each question
- You will all sign that copy to indicate that you agree with the verdict and that it is unanimous
- Your foreperson will then bring the signed Verdict Form to the courtroom when it is time to announce your verdict

* * *

I will now give you additional instructions on the charged offenses.

No. 5 — THE “ALLEGED SCHEME TO DEFRAUD”

Definition of a “Scheme to Defraud”

The Indictment alleges that the charges against Weimer arose from an alleged “scheme to defraud.” A “scheme to defraud” includes

- any plan or course of action intended to deceive or cheat another out of money by
 - making material false statements, or
 - concealing material facts; or
 - omitting material facts

OR

- a plan to obtain money from another by
 - making material false representations, or
 - making materially false promises.

A “scheme to defraud” need not be fraudulent on its face, but it must include some sort of fraudulent misrepresentation or promise reasonably calculated to deceive a reasonable person.

A statement or representation was “false,” if

- it was untrue when made, or
- effectively concealed or omitted a material fact

A false statement, representation, or promise was “material,” if

- it had a natural tendency to influence, or was capable of influencing, the decision of a reasonable person in deciding whether or not to engage in a particular transaction, but
- whether or not it was “material” does not depend upon whether or not a person was actually deceived

The “Scheme to Defraud” alleged in this case

The Indictment alleges that the charges against Weimer arose from the following “scheme to defraud”:

The Indictment alleges that, from about December 1, 2008, through about February 21, 2011, Weimer and others executed, intended to execute, and attempted to execute a scheme to defraud and to obtain money from an insurance company by means of false and fraudulent pretenses and representations and by concealment and nondisclosure of material facts. Weimer and others intended to collect insurance proceeds from State Farm Insurance by falsely reporting that a rental home in Fort Dodge had accidentally burned down, when Weimer had intentionally burned down the rental home or had others burn it down.

More specifically, the Indictment alleges that defendant Weimer owned a rental home located at 20456 230th Street in Fort Dodge, Iowa. I will call this property “the Rental Home” in these Instructions. From at least December 1, 2008, until March 2, 2009, Weimer rented the Rental Home to Lisa Young. On or about September 11, 2008, Weimer submitted an insurance enrollment form to State Farm Insurance for the Rental Home seeking \$89,010 in insurance coverage. Weimer was the sole proposed beneficiary on the enrollment form. State Farm

Insurance had offices in Fort Dodge, Iowa; Lincoln, Nebraska; Phoenix, Arizona; and elsewhere in the United States. State Farm Insurance issued a policy for the Rental Home providing insurance against accidental fire.

The Rental Home burned down on or about March 2, 2009. On or about March 2, 2009, Weimer submitted a claim to State Farm Insurance falsely reporting that the Rental Home had accidentally burned down, when she knew that the property had not accidentally burned down, but had been intentionally burned down. Based on Weimer's false report, Weimer sought and eventually received payment of approximately \$78,593.25 from State Farm Insurance.

Your decisions

You must decide the following questions:

1. whether or not the alleged "scheme to defraud" existed, and
2. whether or not defendant Weimer made up or participated in that "scheme to defraud"

In deciding these questions, remember that the prosecution does not have to prove the following:

- that the defendant and others met together to formulate the scheme charged
- that there was a formal agreement among the participants in the scheme in order for them to be held jointly responsible for the operation of the scheme
- that the defendant was the person who made up the scheme, but it must prove that she either made up or participated in it

It is enough for the prosecution to prove that only one person made up the “scheme to defraud” and that the others knowingly, voluntarily, and intentionally joined in and participated in some way in the operation of the scheme

**No. 6 — “PERSONAL COMMISSION” AND
“AIDING AND ABETTING” ALTERNATIVES**

The prosecution contends that Weimer can be found guilty of each of the offenses charged in **Counts 1** through **6** in the following ways:

- (1) personally committing the offense, *or*
- (2) aiding and abetting another or others to commit the offense, *or*
- (3) both

“Personal Commission” Alternative

A person may be found guilty of “personally committing” an offense, only if the person personally did every element constituting the offense charged. The elements of each kind of offense are set out in the following instructions.

If the prosecution fails to prove that the defendant personally committed every element constituting a charged offense beyond a reasonable doubt, then you cannot find the defendant guilty of that offense under the “personal commission” alternative.

“Aiding And Abetting” Alternative

A person may be found guilty of an offense, even if that person did not personally do every element constituting that offense, if that person “aided and abetted” the commission of the offense by another person. For you to find the defendant guilty of “aiding and abetting” an offense, the prosecution must prove beyond a reasonable doubt each of the following elements against her:

***One*, on or about the date alleged in the Count in question, some person or persons personally committed the charged offense.**

The prosecution must first prove that someone “personally committed” the charged offense. It is not necessary that the other person or persons be convicted or even identified.

***Two*, before or at the time that the offense in question was committed, the defendant knew that the offense was being committed or was going to be committed.**

The aider and abettor:

- must have known that another or others were committing or going to commit the charged offense
- need not have known that the offense was a crime or illegal

***Three*, the defendant knowingly acted in some way for the purpose of causing, encouraging, or aiding the other person or persons to commit the offense in question, with the intent that the offense would be carried out.**

The aider and abettor must have knowingly participated in the charged offense with the intent that the charged offense would be committed.

The following, alone, are not enough to show that the defendant aided and abetted an offense:

- evidence that a person was merely present at the scene of an event
- evidence that a person merely acted in the same way as others

- evidence that a person merely associated with others
- evidence that a person had no knowledge that a crime was being committed or was going to be committed, but happened to act in a way that advanced some offense

If the prosecution fails to prove these elements beyond a reasonable doubt as to a particular charged offense, then you cannot find the defendant guilty of that offense under the “aiding and abetting” alternative.

**No. 7 — COUNTS 1 THROUGH 5: ALLEGED
“WIRE FRAUD”**

Counts 1 through **5** of the Indictment charge Weimer with separate “wire fraud” offenses.

To prove that Weimer “personally committed” a particular “wire fraud” offense, the prosecution must prove each of the following elements against Weimer beyond a reasonable doubt:

***One*, from about December 1, 2008, to about February 21, 2011, in the Northern District of Iowa, the defendant voluntarily and intentionally made up or participated in a “scheme to defraud.”**

The “scheme to defraud” that Weimer allegedly made up or participated in is explained in Instruction No. 5. You must decide the following:

- whether or not the alleged “scheme to defraud” existed, and
- whether or not Weimer made up or participated in that “scheme to defraud”

***Two*, the defendant made up or participated in the “scheme to defraud” with intent to defraud.**

The defendant acted with “intent to defraud,” if she

- acted knowingly and with the intent to deceive someone for the purpose of
 - causing some financial loss to another,
or

- bringing about some financial gain to herself or another to the detriment of a third party

To prove that the defendant made false statements with “intent to defraud,” the prosecution must prove:

- that the defendant must have known the statement was untrue when made, or
- that the defendant made the statement with reckless indifference to its truth or falsity

Three, it was reasonably foreseeable that interstate wire communications would be used in furtherance of the “scheme to defraud.”

“Interstate wire communications” include:

- interstate communications by telephone, e-mail, computer networks, or computerized messaging, and
- interstate electronic funds transfers or transactions

Interstate wire communications were used “in furtherance” of the “scheme to defraud” if they

- advanced the “scheme to defraud,” or
- helped forward the “scheme to defraud”

The prosecution does not have to prove:

- that the participants knew, anticipated, or intended that interstate wire communications would be used in furtherance of the “scheme to defraud”

- that the defendant actually made any of interstate wire communications in furtherance of the “scheme to defraud”

The prosecution must prove that use of interstate wire communications was “reasonably foreseeable”:

- “Reasonably foreseeable” means that a reasonable person, in the defendant’s position, would have
 - predicted that use of interstate wire communications was likely, or
 - understood that use of interstate wire communications was likely, or
 - understood that use of interstate wire communications would happen in the ordinary course of business

The prosecution does not have to prove that use of interstate wire communications was actually intended.

Four, the interstate wire communication alleged was, in fact, used in furtherance of the “scheme to defraud.”

For this element,

- each separate interstate wire communication in furtherance of a “scheme to defraud” is a separate offense
- there may be several separate “wire fraud” offenses arising from a single “scheme to defraud”
- The separate “wire fraud” offenses charged in this case are set out in Instruction No. 8.

- You must decide whether or not the prosecution has proved the specific interstate wire communication alleged in each “wire fraud” count

The prosecution does not have to prove that the defendant was the one who used or made the interstate wire communication alleged in each count.

If the prosecution *does not* prove all of these elements beyond a reasonable doubt against defendant Weimer as to a particular count of “wire fraud,” then you must find her not guilty of “personally committing” that “wire fraud” offense.

Whether or not you find Weimer guilty of “personally committing” a particular “wire fraud” offense, you must *also* consider whether or not she “aided and abetted” the commission of that offense by another or others, as the “aiding and abetting” alternative is explained in Instruction No. 6.

**No. 8 — COUNTS 1 THROUGH 5: SPECIFIC
“WIRE FRAUD” OFFENSES**

The Indictment charges defendant Weimer with the following specific “wire fraud” offenses:

Count	Date	Wire Communication
1	March 2, 2009	During an interstate phone call (between Nebraska and Iowa) with an insurance claims adjuster, Weimer fraudulently claimed that the fire that destroyed the Rental Home was accidental
2	March 30, 2009	Weimer presented check number 106678892J, in the amount of \$33,700.53, drawn against State Farm Insurance’s bank account at a bank in Minnesota (<i>i.e.</i> , U.S. Bank N.A. East Grand Forks, Minnesota), to First State Bank in Iowa (<i>i.e.</i> , Weimer’s bank) for cash or deposit. In doing so, Weimer caused a wire communication to be transmitted from First State Bank (<i>i.e.</i> , Weimer’s bank) to the Banker’s Bank (<i>i.e.</i> , the clearinghouse bank) to effect the transfer of funds from State Farm Insurance bank in Minnesota to Weimer’s bank in Iowa.
3	May 8, 2009	Weimer presented check number 106818403J, in the amount of \$3,900.00, drawn against State Farm Insurance’s bank account at a bank in Minnesota (<i>i.e.</i> , U.S. Bank N.A. East Grand Forks, Minnesota), to First State Bank in Iowa (<i>i.e.</i> , Weimer’s bank) for cash or deposit. In doing so, Weimer caused a wire communication to be transmitted from First State Bank (<i>i.e.</i> , Weimer’s bank) to the Banker’s Bank (<i>i.e.</i> , the clearinghouse bank) to effect the transfer of funds from State Farm Insurance’s bank in Minnesota to Weimer’s bank in Iowa.

Count	Date	Wire Communication
4	May 26, 2010	Weimer presented check number 106523736J, in the amount of \$3,900.00, drawn against State Farm Insurance's bank account at a bank in Minnesota (<i>i.e.</i> , U.S. Bank N.A. East Grand Forks, Minnesota), to First State Bank in Iowa (<i>i.e.</i> , Weimer's bank) for cash or deposit. In doing so, Weimer caused a wire communication to be transmitted from First State Bank (<i>i.e.</i> , Weimer's bank) to the Banker's Bank (<i>i.e.</i> , the clearinghouse bank) to effect the transfer of funds from State Farm Insurance's bank in Minnesota to Weimer's bank in Iowa.
5	February 21, 2011	Weimer presented check number 106550998J, in the amount of \$37,092.72, drawn against State Farm Insurance's bank account at a bank in Minnesota (<i>i.e.</i> , U.S. Bank N.A. East Grand Forks, Minnesota), to First State Bank in Iowa (<i>i.e.</i> , Weimer's bank) for cash or deposit. In doing so, Weimer caused a wire communication to be transmitted from First State Bank (<i>i.e.</i> , Weimer's bank) to the Banker's Bank (<i>i.e.</i> , the clearinghouse bank) to effect the transfer of funds from State Farm Insurance's bank in Minnesota to Weimer's bank in Iowa.

You must decide whether or not the prosecution has proved that Weimer “personally committed,” or “aided and abetted,” or both, each of these separate “wire fraud” offenses.

**No. 9 — COUNT 6: ALLEGED “USE OF FIRE
TO COMMIT WIRE FRAUD”**

Count 6 of the Indictment charges Weimer with “use of fire to commit wire fraud.”

To prove that Weimer “personally committed” this offense, the prosecution must prove each of the following elements against Weimer beyond a reasonable doubt:

One, Weimer committed one or more of the “wire fraud” offenses charged in **Counts 1 through 5** of the Indictment in the Northern District of Iowa.

The prosecution:

- does not have to prove that Weimer committed all of the “wire fraud” offenses charged in **Counts 1 through 5**, but
- must prove that she committed at least one of those “wire fraud” offenses, either personally or by aiding and abetting

Therefore, if you find Weimer not guilty of all of the “wire fraud” offenses charged in **Counts 1 through 5**, you cannot find her guilty of this “use of fire to commit wire fraud” offense.

Two, Weimer used fire to commit such a “wire fraud” offense or offenses.

The defendant “used fire” to commit a “wire fraud” offense, if

- she used fire to carry out a purpose of the “scheme to defraud” at issue in that “wire fraud” offense, or
- she took action to further that “scheme to defraud” by starting the fire, or
- she did not actually start the fire herself, but did
 - assist another to start the fire
 - participate with another to start the fire
 - plan with another to start the fire
 - obtain another to start the fire, or
 - made an insurance claim for damage caused by the fire, knowing that the fire had been intentionally set by another

If the prosecution *does not* prove all of these elements beyond a reasonable doubt against defendant Weimer as to the offense of “using fire to commit wire fraud” in **Count 6**, then you must find her not guilty of “personally committing” that offense.

Whether or not you find Weimer guilty of “personally committing” the offense of “using fire to commit wire fraud,” you must *also* consider whether or not she “aided and abetted” the commission of that offense by another or others, as the “aiding and abetting” alternative is explained in Instruction No. 6.

**No. 10 — COUNT 7: THE ALLEGED
“CONSPIRACY TO USE FIRE TO COMMIT
WIRE FRAUD”**

Finally, **Count 7** of the Indictment charges Weimer with “conspiracy to use fire to commit wire fraud.”

To prove that Weimer committed this offense, the prosecution must prove each of the following elements against Weimer beyond a reasonable doubt:

***One*, at some time during the period alleged for the conspiracy, from about December 1, 2008, through about February 21, 2011, in the Northern District of Iowa, two or more persons reached an agreement or understanding to use fire to commit wire fraud.**

A conspiracy is an agreement of two or more persons to commit one or more crimes. For this element to be proved,

- the defendant may have been, but did not have to be, one of the original conspirators
- the crime that the conspirators agreed to commit did not actually have to be committed
 - The defendant may be found guilty of this “conspiracy” offense, even if you did not find her guilty of actually committing the offense of “using fire to commit wire fraud,” as charged in **Count 6**
- the agreement did not have to be written or formal

- the agreement did not have to involve every detail of the conspiracy

Here, the conspirators allegedly agreed to “use fire to commit wire fraud.”

- To help you decide whether or not the conspirators agreed to “use fire to commit wire fraud,” you should consider the elements of that crime
- The elements of “using fire to commit wire fraud” are set out in Instruction No. 9

Remember,

- the prosecution does not have to prove that any conspirator actually used fire to commit wire fraud for this conspiracy charge to be proved, *but*
- if there was no agreement, there was no conspiracy

Two, the defendant voluntarily and intentionally joined in the agreement or understanding.

The prosecution must prove that the defendant had some degree of knowing involvement and cooperation in the agreement to prove that she joined in the agreement.

The defendant may have joined in the agreement

- at any time during its existence
- even if she agreed to play only a minor role in it

The defendant did not have to do any of the following to join the agreement:

- join the agreement at the same time as all of the other conspirators
- know all of the details of the conspiracy, such as the names, identities, or locations of all of the other members, or
- conspire with every other member of the conspiracy

On the other hand, each of the following, alone, is not enough to show that a person joined the agreement:

- evidence that a person was merely present at the scene of an event
- evidence that a person merely acted in the same way as others
- evidence that a person merely associated with others
- evidence that a person was friends with or met socially with individuals involved in the conspiracy
- evidence that a person who had no knowledge of a conspiracy acted in a way that advanced the purpose of the conspiracy
- evidence that a person merely knew of the existence of a conspiracy
- evidence that a person merely knew that the crime of “using fire to commit wire fraud” was being considered or attempted, or
- evidence that a person merely approved of the purpose of the conspiracy

If you find that there was an agreement, but you find that the defendant did not join in that agreement, then you cannot find the defendant guilty of the charged conspiracy offense.

Three, at the time that the defendant joined in the agreement or understanding, she knew the purpose of the agreement or understanding.

The prosecution:

- must prove that the defendant knew the purpose of the conspiracy, *but*
- does not have to prove that the defendant knew that what she did was unlawful

Four, while the agreement or understanding was in effect, a person or persons who had joined in the agreement knowingly did one or more acts for the purpose of carrying out or carrying forward the agreement or understanding.

An act for the purpose of carrying out or carrying forward the agreement or understanding is an “overt act.” The prosecution does not have to prove the following:

- that the “overt act” was, itself, unlawful
 - the “overt act” may be perfectly innocent in itself
- that the defendant personally committed the “overt act,” knew about it, or witnessed it
 - it does not matter which of the conspirators did the “overt act”
- that more than one “overt act” was committed

- it is enough if the prosecution proves beyond a reasonable doubt *one* such act
- you must unanimously agree on which one or more “overt acts” were committed by one or more conspirators

The alleged “overt acts” for this conspiracy offense are set out in Instruction No. 11.

If the prosecution *does not* prove all of these elements beyond a reasonable doubt, then you must find the defendant not guilty of the “conspiracy to use fire to commit wire fraud” offense charged in **Count 7** of the Indictment.

No. 11 — COUNT 7: ALLEGED “OVERT ACTS”

Count 7 of the Indictment alleges the following “overt acts,” among others, for the “conspiracy to use fire to commit wire fraud” offense:

- A. Sometime before March 2, 2009, Weimer offered Lisa Young \$10,000 to burn down the Rental Home, so that Weimer could defraud State Farm Insurance
- B. Sometime after March 2, 2009, Weimer paid Lisa Young \$1,000 as a down payment on the agreed upon \$10,000
- C. Sometime before March 2, 2009, Lisa Young recruited her ex-husband, Melvin Young, into the conspiracy
- D. Sometime before March 2, 2009, Melvin Young unsuccessfully attempted to burn down the Rental Home
- E. Sometime before March 2, 2009, Lisa Young recruited her son, Gerald Straight, and his sister, Ashley Straight, into the conspiracy
- F. On or about March 2, 2009, Gerald Straight and Ashley Straight successfully burned down the Rental Home
- G. On or about or about March 2, 2009, Weimer submitted a fraudulent insurance claim to State Farm Insurance, which State Farm Insurance entered into its computer network, the servers for which are located in Phoenix, Arizona
- H. On or about March 2, 2009, during a telephone conversation between an insurance claims adjuster in Lincoln, Nebraska, and Weimer in Fort Dodge, Iowa, Weimer reiterated her claim that the fire was an accident (not arson)
- I. On or about March 30, 2009, Weimer fraudulently received \$33,700.53 from State Farm Insurance
- J. On or about May 8, 2009, Weimer fraudulently received \$3,900.00 from State Farm Insurance

- K. On or about May 26, 2010, Weimer fraudulently received \$3,900.00 from State Farm Insurance
- L. On or about February 21, 2011, Weimer fraudulently received \$37,092.72 from State Farm Insurance

Again, you must unanimously agree on which one or more “overt acts” were committed by one or more conspirators.

No. 12 — DEFINITION OF EVIDENCE

Evidence is the following:

- testimony
- exhibits admitted into evidence, but exhibits are not necessarily more important than any other evidence, just because they are shown to you
- stipulations, which are agreements between the parties that certain facts are true
 - you must treat stipulated facts as proved

The following are not evidence:

- testimony that I tell you to disregard
- exhibits that are not admitted into evidence
- statements, arguments, questions, and comments by the lawyers
- objections and rulings on objections
- anything that you see or hear about this case outside the courtroom

You may have heard of “direct” or “circumstantial” evidence.

- “Direct” evidence is direct proof of a fact
 - An example is testimony by a witness about what that witness personally saw or heard or did

- “Circumstantial” evidence is proof of one or more facts from which you could find another fact
 - An example is testimony that a witness personally saw a broken window and a brick on the floor, from which you could find that the brick broke the window
- You should consider both kinds of evidence, because the law makes no distinction in their weight
- The weight to be given any evidence, whether it is “direct” or “circumstantial,” is for you to decide

Some evidence may be admitted only for a limited purpose.

- I will tell you if that happens
- I will instruct you on the purposes for which the evidence can and cannot be used

No. 13 — TESTIMONY OF WITNESSES

You may believe all of what any witness says, only part of it, or none of it.

In evaluating a witness's testimony, consider the following:

- the witness's
 - intelligence
 - memory
 - opportunity to have seen and heard what happened
 - motives for testifying
 - interest in the outcome of the case
 - manner while testifying
 - drug or alcohol use or addiction, if any
- the reasonableness of the witness's testimony
- any differences between what the witness says now and said earlier
- any inconsistencies between the witness's testimony and any other evidence that you believe
- whether any inconsistencies are the result of seeing or hearing things differently, actually forgetting things, or innocent mistakes or are, instead, the result of lies or phony memory lapses, and
- any other factors that you find bear on believability or credibility

You should not give any more or less weight to a witness's testimony just because the witness is one of the following:

- a public official or law enforcement officer
- an expert

You may give any witness's opinion whatever weight you think it deserves, but you should consider the following:

- the reasons and perceptions on which the opinion is based
- any reason that the witness may be biased, and
- all of the other evidence in the case

If the defendant testifies,

- you should judge her testimony in the same way that you judge the testimony of any other witness

You may hear evidence that a witness has been convicted of a crime. You may use that evidence only to help you decide

- whether or not to believe that witness, and
- how much weight to give that witness's testimony

You must consider the testimony of the following witnesses with greater caution and care:

- A witness testifying about participation in a charged crime

- A witness testifying pursuant to a plea agreement
 - Whether or not the witness’s testimony has been influenced by the plea agreement is for you to decide
 - The plea agreement may be a “cooperation” plea agreement that provides that the prosecution may recommend a less severe sentence if the prosecutor believes that the witness has provided “substantial assistance”
 - A judge cannot reduce a sentence for “substantial assistance” unless the prosecution asks the judge to do so, but if the prosecution does ask, the judge decides if and how much to reduce the witness’s sentence

It is for you to decide

- What weight you think the testimony of such a witness deserves
- Whether or not such a witness’s testimony has been influenced by that witness’s desire to please the prosecutor or to strike a good bargain

Remember, it is your exclusive right to give any witness’s testimony whatever weight you think it deserves.

No. 14 — OBJECTIONS

The lawyers may make objections and motions during the trial that I must rule upon.

- If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself
- Do not hold it against a lawyer or a party that a lawyer has made an objection, because lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible

No. 15 — BENCH CONFERENCES

During the trial, it may be necessary for me to talk with the lawyers out of your hearing.

- I may hold a bench conference while you are in the courtroom or call a recess
- These conferences are to decide how certain evidence is to be treated, to avoid confusion and error, and to save your valuable time, so please be patient
- We will do our best to keep such conferences short and infrequent

No. 16 — NOTE-TAKING

You are allowed to take notes during the trial, if you want to.

- Be sure that your note-taking does not interfere with listening to and considering all the evidence
- Your notes are not necessarily more reliable than your memory or another juror's notes or memory
- Do not discuss your notes with anyone before you begin your deliberations
- Leave your notes on your chair during recesses and at the end of the day
- At the end of trial, you may take your notes with you or leave them to be destroyed
- No one else will ever be allowed to read your notes, unless you let them

If you choose not to take notes, remember that it is your own individual responsibility to listen carefully to the evidence.

An official court reporter is making a record of the trial, but her transcripts will not be available for your use during your deliberations.

No. 17 — CONDUCT OF JURORS DURING TRIAL

You must decide this case *solely* on the evidence and your own observations, experiences, reason, common sense, and the law in these Instructions. You must also keep to yourself any information that you learn in court until it is time to discuss this case with your fellow jurors during deliberations.

To ensure fairness, you must obey the following rules:

- Do not talk among yourselves about this case, or about anyone involved with it, until you go to the jury room to decide on your verdict.
- Do not talk with anyone else about this case, or about anyone involved with it, until the trial is over.
- When you are outside the courtroom, do not let anyone ask you about or tell you anything about this case, anyone involved with it, any news story, rumor, or gossip about it, until the trial is over. If someone should try to talk to you about this case during the trial, please report it to me.
- During the trial, you should not talk to any of the parties, lawyers, or witnesses—even to pass the time of day—so that there is no reason to be suspicious about your fairness. The lawyers, parties, and witnesses are not supposed to talk to you, either.
- You may need to tell your family, friends, teachers, co-workers, or employer about your participation in this trial, so that you can tell

them when you must be in court and warn them not to ask you or talk to you about the case. However, do not provide any information to anyone by any means about this case until after I have accepted your verdict. That means do not talk face-to-face or use any electronic device or media, such as the telephone, a cell or smart phone, a Blackberry, a PDA, a computer, the Internet, any Internet service, any text or instant messaging service, any Internet chat room, any blog, or any website such as Facebook, MySpace, YouTube, or Twitter, to communicate to anyone any information about this case until I accept your verdict.

- Do not do any research—on the Internet, in libraries, in the newspapers, in dictionaries or other reference books, or in any other way—or make any investigation about this case, the law, or the people involved on your own.
- Do not visit or view any place discussed in this case and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony.
- Do not read any news stories or articles, in print, on the Internet, or in any “blog,” about this case, or about anyone involved with it, or listen to any radio or television reports about it or about anyone involved with it, or let anyone tell you anything about any such news reports. I assure you that when you have heard all the evidence, you will know more about this case than anyone will learn through the news media—and it will be more accurate.

- Do not make up your mind during the trial about what the verdict should be. Keep an open mind until you have had a chance to discuss the evidence with other jurors during deliberations.
- Do not decide the case based on “implicit biases.” As we discussed during jury selection, everyone, including me, has feelings, assumptions, perceptions, fears, and stereotypes, that is, “implicit biases,” that we may not be aware of. These hidden thoughts can impact what we see and hear, how we remember what we see and hear, and how we make important decisions. Because you are making very important decisions in this case, I strongly encourage you to evaluate the evidence carefully and to resist jumping to conclusions based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluation of that evidence, your reason and common sense, and these instructions. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases.
- If, at any time during the trial, you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer (CSO), who will give it to me. I want you to be comfortable, so please do not hesitate to tell us about any problem.

I will read the remaining two Instructions at the end of the evidence.

No. 18 — DUTY TO DELIBERATE

A verdict must represent the careful and impartial judgment of each of you. However, before you make that judgment, you must consult with one another and try to reach agreement, if you can do so consistent with your individual judgment.

- If you are convinced that the prosecution has not proved beyond a reasonable doubt that the defendant is guilty of a charged offense, say so
- If you are convinced that the prosecution has proved beyond a reasonable doubt that the defendant is guilty of a charged offense, say so
- Don't give up your honest beliefs just because others think differently or because you simply want to be finished with the case
- On the other hand, do not hesitate to re-examine your own views and to change your opinions, if you are convinced that they are wrong
- You can only reach a unanimous verdict if you discuss your views openly and frankly, with proper regard for the opinions of others, and with a willingness to re-examine your own views
- Remember that you are not advocates, but judges of the facts, so your sole interest is to seek the truth from the evidence
- The question is never who wins or loses the case, because society always wins, whatever your verdict, when you return a just verdict

based solely on the evidence, reason, your common sense, and these instructions

- You must consider all of the evidence bearing on each question before you
- Take all the time that you feel is necessary
- Remember that this case is important to the parties and to the fair administration of justice, so do not be in a hurry to reach a verdict just to be finished with the case

No. 19 — DUTY DURING DELIBERATIONS

You must follow certain rules while conducting your deliberations and returning your verdict:

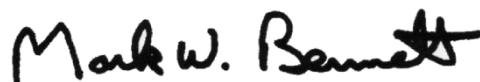
- Select a foreperson to preside over your discussions and to speak for you here in court.
- Do not consider punishment in any way in deciding whether the defendant is not guilty or guilty. If the defendant is guilty of any charged offense, I will decide what her sentence should be.
- Communicate with me by sending me a note through a Court Security Officer (CSO). The note must be signed by one or more of you. Remember that you should not tell anyone, including me, how your votes stand. I will respond as soon as possible, either in writing or orally in open court.
- Base your verdict solely on the evidence, reason, your common sense, and these instructions. Again, nothing I have said or done was intended to suggest what your verdict should be—that is entirely for you to decide.
- Reach your verdict without discrimination. In reaching your verdict, you must not consider the defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against the defendant unless you would return the same verdict without regard to her race, color, religious beliefs, national origin, or sex. To

emphasize the importance of this requirement, the verdict form contains a certification statement. Each of you should carefully read that statement, then sign your name in the appropriate place in the signature block, if the statement accurately reflects how you reached your verdict.

- Complete the Verdict Form. The foreperson must bring the signed Verdict Form to the courtroom when it is time to announce your verdict.
- When you have reached a verdict, the foreperson will advise the CSO that you are ready to return to the courtroom.

Good luck with your deliberations.

DATED this 1st day of April, 2014.



MARK W. BENNETT
U.S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SHIRLEY WEIMER,

Defendant.

No. CR 13-3035-MWB

VERDICT FORM

As to defendant Shirley Weimer, we, the Jury, find as follows:

COUNT 1: WIRE FRAUD		VERDICT
Step 1: Verdict	On the charge of “wire fraud,” as charged in Count 1 of the Indictment, concerning a wire communication on or about March 2, 2009, please mark your verdict. (<i>The “elements” of “wire fraud” are explained in Instruction No. 7, and the specific “wire fraud” offense charged in Count 1 is stated in Instruction No. 8. If you find the defendant “not guilty” of this offense, do not answer the question in Step 2. Instead, please go on to consider your verdict on Count 2.</i>)	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty
Step 2: Alternative(s)	If you found the defendant “guilty” of this “wire fraud” offense in Step 1 , please indicate whether the defendant is guilty of “personally committing,” “aiding and abetting,” or “both personally committing and aiding and abetting” the commission of this offense. (<i>“Personal commission” and “aiding and abetting” alternatives are explained in Instruction No. 6. When you have answered the question in this step, please go on to consider your verdict on Count 2.</i>)	
	<input type="checkbox"/> personally committing the offense	<input type="checkbox"/> aiding and abetting the offense
	<input type="checkbox"/> both personally committing and aiding and abetting the offense	

COUNT 2: WIRE FRAUD		VERDICT
Step 1: Verdict	On the charge of “wire fraud,” as charged in Count 2 of the Indictment, concerning a wire communication on or about March 30, 2009, please mark your verdict. (<i>The “elements” of “wire fraud” are explained in Instruction No. 7, and the specific “wire fraud” offense charged in Count 2 is stated in Instruction No. 8. If you find the defendant “not guilty” of this offense, do not answer the question in Step 2. Instead, please go on to consider your verdict on Count 3.</i>)	___ Not Guilty ___ Guilty
Step 2: Alternative(s)	<i>If you found the defendant “guilty” of this “wire fraud” offense in Step 1, please indicate whether the defendant is guilty of “personally committing,” “aiding and abetting,” or “both personally committing and aiding and abetting” the commission of this offense. (“Personal commission” and “aiding and abetting” alternatives are explained in Instruction No. 6. When you have answered the question in this step, please go on to consider your verdict on Count 3.)</i>	
	___ personally committing the offense	___ aiding and abetting the offense
		___ both personally committing and aiding and abetting the offense
COUNT 3: WIRE FRAUD		VERDICT
Step 1: Verdict	On the charge of “wire fraud,” as charged in Count 3 of the Indictment, concerning a wire communication on or about May 8, 2009, please mark your verdict. (<i>The “elements” of “wire fraud” are explained in Instruction No. 7, and the specific “wire fraud” offense charged in Count 3 is stated in Instruction No. 8. If you find the defendant “not guilty” of this offense, do not answer the question in Step 2. Instead, please go on to consider your verdict on Count 4.</i>)	___ Not Guilty ___ Guilty
Step 2: Alternative(s)	<i>If you found the defendant “guilty” of this “wire fraud” offense in Step 1, please indicate whether the defendant is guilty of “personally committing,” “aiding and abetting,” or “both personally committing and aiding and abetting” the commission of this offense. (“Personal commission” and “aiding and abetting” alternatives are explained in Instruction No. 6. When you have answered the question in this step, please go on to consider your verdict on Count 4.)</i>	
	___ personally committing the offense	___ aiding and abetting the offense
		___ both personally committing and aiding and abetting the offense

COUNT 4: WIRE FRAUD		VERDICT
Step 1: Verdict	On the charge of “wire fraud,” as charged in Count 4 of the Indictment, concerning a wire communication on or about May 26, 2010, please mark your verdict. (<i>The “elements” of “wire fraud” are explained in Instruction No. 7, and the specific “wire fraud” offense charged in Count 4 is stated in Instruction No. 8. If you find the defendant “not guilty” of this offense, do not answer the question in Step 2. Instead, please go on to consider your verdict on Count 5.</i>)	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty
Step 2: Alternative(s)	If you found the defendant “guilty” of this “wire fraud” offense in Step 1 , please indicate whether the defendant is guilty of “personally committing,” “aiding and abetting,” or “both personally committing and aiding and abetting” the commission of this offense. (<i>“Personal commission” and “aiding and abetting” alternatives are explained in Instruction No. 6. When you have answered the question in this step, please go on to consider your verdict on Count 5.</i>)	
	<input type="checkbox"/> personally committing the offense	<input type="checkbox"/> aiding and abetting the offense
	<input type="checkbox"/> both personally committing and aiding and abetting the offense	
COUNT 5: WIRE FRAUD		VERDICT
Step 1: Verdict	On the charge of “wire fraud,” as charged in Count 5 of the Indictment concerning a wire communication on or about February 11, 2011, please mark your verdict. (<i>The “elements” of “wire fraud” are explained in Instruction No. 7, and the specific “wire fraud” offense charged in Count 5 is stated in Instruction No. 8. If you find the defendant “not guilty” of this offense, do not answer the question in Step 2. Instead, please go on to consider your verdict on Count 6.</i>)	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty
Step 2: Alternative(s)	If you found the defendant “guilty” of this “wire fraud” offense in Step 1 , please indicate whether the defendant is guilty of “personally committing,” “aiding and abetting,” or “both personally committing and aiding and abetting” the commission of this offense. (<i>“Personal commission” and “aiding and abetting” alternatives are explained in Instruction No. 6. When you have answered the question in this step, please go on to consider your verdict on Count 6.</i>)	
	<input type="checkbox"/> personally committing the offense	<input type="checkbox"/> aiding and abetting the offense
	<input type="checkbox"/> both personally committing and aiding and abetting the offense	

COUNT 6: USING FIRE TO COMMIT WIRE FRAUD			VERDICT
Step 1: Verdict	On the charge of “using fire to commit wire fraud,” as charged in Count 6 of the Indictment, please mark your verdict. <i>(This offense is explained in Instruction No. 9. If you find the defendant “not guilty” of this offense, do not answer the questions in Step 2. Instead, please go on to consider your verdict on Count 7.)</i>		___ Not Guilty ___ Guilty
Step 2: Alternative(s)	<i>If you found the defendant “guilty” of the charge of “using fire to commit wire fraud” in Step 1, please indicate (a) which one or more “wire fraud” offenses the defendant used fire to commit, and (b) whether the defendant is guilty of “personally committing,” “aiding and abetting,” or “both personally committing and aiding and abetting” the commission of the offense of “using fire to commit wire fraud.” (You cannot find the defendant guilty of “using fire to commit a wire fraud offense,” unless you first found her guilty of one or more “wire fraud” offenses. “Personal commission” and “aiding and abetting” alternatives are explained in Instruction No. 6. When you have answered the questions in this step, please go on to consider your verdict on Count 7.)</i>		
(a)	___ Count 2	___ Count 3	___ Count 4
	___ Count 5	___ Count 6	
(b)	___ personally committing the offense	___ aiding and abetting the offense	___ both personally committing and aiding and abetting the offense
COUNT 7: CONSPIRACY TO USE FIRE TO COMMIT WIRE FRAUD			VERDICT
Step 1: Verdict	On the charge of “conspiracy to use fire to commit wire fraud,” as charged in Count 7 of the Indictment, please mark your verdict. <i>(The “elements” of “conspiracy to use fire to commit wire fraud” are explained in Instruction No. 10. If you find the defendant “not guilty” of this offense, do not answer the question in Step 2. Instead, please consider and sign the “Certification” and notify the Court Security Officer (CSO) that you have reached a verdict.)</i>		___ Not Guilty ___ Guilty
Step 2: Overt Act(s)	<i>If you found the defendant “guilty” of this “conspiracy to use fire to commit wire fraud” offense in Step 1, please indicate which one or more of the following “overt acts” were committed by one or more conspirators. (“Overt acts” are identified in Instruction No. 11. When you have answered the question in this step, please consider and sign the “Certification” and notify the Court Security Officer (CSO) that you have reached a verdict.)</i>		

	<p>_____ A. Sometime before March 2, 2009, Weimer offered Lisa Young \$10,000 to burn down the Rental Home, so that Weimer could defraud State Farm Insurance</p>
	<p>_____ B. Sometime after March 2, 2009, Weimer paid Lisa Young \$1,000 as a down payment on the agreed upon \$10,000</p>
	<p>_____ C. Sometime before March 2, 2009, Lisa Young recruited her ex-husband, Melvin Young, into the conspiracy</p>
	<p>_____ D. Sometime before March 2, 2009, Melvin Young unsuccessfully attempted to burn down the Rental Home</p>
	<p>_____ E. Sometime before March 2, 2009, Lisa Young recruited her son, Gerald Straight, and his sister, Ashley Straight, into the conspiracy</p>
	<p>_____ F. On or about March 2, 2009, Gerald Straight and Ashley Straight successfully burned down the Rental Home</p>
	<p>_____ G. On or about or about March 2, 2009, Weimer submitted a fraudulent insurance claim to State Farm Insurance, which State Farm Insurance entered into its computer network, the servers for which are located in Phoenix, Arizona</p>
	<p>_____ H. On or about March 2, 2009, during a telephone conversation between an insurance claims adjuster in Lincoln, Nebraska, and Weimer in Fort Dodge, Iowa, Weimer reiterated her claim that the fire was an accident (not arson)</p>
	<p>_____ I. On or about March 30, 2009, Weimer fraudulently received \$33,700.53 from State Farm Insurance</p>
	<p>_____ J. On or about May 8, 2009, Weimer fraudulently received \$3,900.00 from State Farm Insurance</p>
	<p>_____ K. On or about May 26, 2010, Weimer fraudulently received \$3,900.00 from State Farm Insurance</p>
	<p>_____ L. On or about February 21, 2011, Weimer fraudulently received \$37,092.72 from State Farm Insurance</p>
	<p>_____ M. Another or other overt acts. <i>(If you mark this choice, please state the other overt act or overt acts that you unanimously find the prosecution has proved beyond a reasonable doubt.)</i></p>

CERTIFICATION

By signing below, each juror certifies the following:

(1) that consideration of the defendant's race, color, religious beliefs, national origin, or sex was not involved in reaching the juror's individual decision, *and*

(2) that the individual juror would have returned the same verdict for or against the defendant on each charged offense regardless of the defendant's race, color, religious beliefs, national origin, or sex.

Date

Foreperson	Juror
Juror	Juror
Juror	Juror
Juror	Juror
Juror	Juror
Juror	Juror